

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 16:001. Definitions for 11 KAR Chapter 16.

RELATES TO: KRS 164.518, 164.740

STATUTORY AUTHORITY: KRS 164.518(3), 164.748(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.518(3) requires the authority to promulgate administrative regulations for administration of the Early Childhood Development Scholarship Program. This administrative regulation establishes definitions applicable to 11 KAR Chapter 16.

Section 1. Definitions. (1) "Academic term" means the fall, spring, or summer semester or its equivalence under a trimester or quarter system at a postsecondary education institution.

(2) "Authority" is defined in KRS 164.740(1).

(3) "Award year" means a period that begins July 1 of one (1) calendar year and ends June 30 of the next succeeding calendar year.

(4) "Capstone semester" means the culmination semester in an Interdisciplinary Early Childhood Education (IECE)/Early Childhood Program which:

(a) Requires additional hours of direct work with children; and

(b) May be listed as student teaching or a practicum.

(5) "Early childhood facility" means:

(a) A licensed Type I or a Type II child-care center defined in 922 KAR 2:110, Sections 1(14) and (15) that is located in Kentucky;

(b) A certified family child care home pursuant to KRS 199.8982 and 922 KAR 2:100 that is located in Kentucky;

(c) An organization approved by the Office of Inspector General of the Cabinet for Health and Family Services to offer training in early childhood development; or

(d) A developmentally appropriate preschool program defined in KRS 157.3175(2).

(6) "ECAC" means Early Childhood Advisory Council.

(7) "ECAC-approved early childhood development credential" means the Child Development Associate's credential or a postsecondary, undergraduate degree, certificate or diploma that is:

(a) An associate degree in early childhood education or baccalaureate or master degree in interdisciplinary early childhood education, or a related program that is approved by the Early Childhood Advisory Council; or

(b) The Kentucky Early Childhood Development Director's Certificate.

(8) "Eligible institution" is defined in KRS 164.740(4).

(9) "Participating early childhood facility" means an early childhood facility that agrees to provide monetary incentives pursuant to 11 KAR 16:060 to early childhood development scholarship recipients employed by the facility.

(10) "Participating educational institution" means an eligible institution located in Kentucky that:

(a) Actively participates in the federal Pell Grant Program;

(b) Offers a scholarship program curriculum;

(c) Has a contract in force with the authority relating to the administration of the Early Childhood Development Scholarship Program and other programs administered by the authority; and

(d) 1. Is publicly operated; or

- 2.a. Is licensed by the Commonwealth of Kentucky;
- b. Has operated for at least ten (10) years;
- c. Offers a program of study not comprised solely of sectarian instruction; and
- d. Admits as regular students only:

- (i) High school graduates;
- (ii) Recipients of a general equivalency diploma; or
- (iii) Students transferring from another accredited degree granting institution.

(11) "Preschool associate teacher" means a classified employee who:

(a) Is employed by a local school district in a paraprofessional role to organize, manage, and provide direct instruction to children below primary school age under the supervision of a qualified professional; and

(b) Meets the requirements of 704 KAR 3:420.

(12) "Professional development counselor" means an individual with the responsibilities to recruit candidates, process the applications, and follow as indicated the procedures established in 11 KAR Chapter 16.

(13) "Professional development funds" means state or federal training funds available through the Head Start Program, a public preschool program, or the Kentucky Early Intervention System (First Steps Program).

(14) "Scholarship" means an Early Childhood Development Scholarship.

(15) "Scholarship program curriculum" means an academic course or series of courses that ~~is [does not lead to a certificate, diploma, or degree in theology, divinity, or religious education]~~ offered by a participating educational institution and needed to obtain an ECAC-approved ~~[ECDA-approved]~~ early childhood development credential.

(16) "Teaching assistant" means an instructional aide in a public school preschool program as set forth in 704 KAR 3:410.

WES CORNETT, Chair

APPROVED BY AGENCY: August 26, 2021

FILED WITH LRC: September 14, 2021 at 12:13 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, November 23, 2021, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

- (1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the definitions of terms used in the administration of the Early Childhood Development Scholarship Program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define or reference certain statutory definitions of terms commonly used in the administration of the Early Childhood Development Scholarship Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.518(3) requires the authority to promulgate administrative regulations for the administration of the Early Childhood Development Scholarship Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by defining terms applicable to the Early Childhood Development Scholarship program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change this existing administrative regulation by adding “master degree in interdisciplinary early childhood education” to the definition of the “ECAC-approved early childhood development credential” in Subsection (7)(a). Additionally, the amendment will remove the specific exclusion of religious education from the definition of “scholarship program curriculum” set forth in Subsection (15). Finally, the amendment will update the description of the early childhood development earned under the curriculum from “ECDA-approved” to “ECAC-approved” in order to be consistent with the definition set forth in Subsection (7).

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary in order to expand the types of credentials for which Early Childhood Development Scholarship funds can be used to include Master’s degrees at the request of the Cabinet for Health and Family Services (CHFS) and the Kentucky Governor’s Office of Early Childhood. This expansion of the definition of eligible credentials will enable utilization of the newly awarded grant funds under the American Rescue Plan. Further, it is necessary to remove the religious education exclusion since this has been deemed irrelevant to this scholarship program. Finally, “ECAC” needs to be substituted as the proper approval entity for the program – the Early Childhood Advisory Council – to be consistent with the remainder of the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes require the Authority to promulgate administrative regulations establishing terms and conditions for the administration of the Early Childhood Development Scholarship program. The amendment to this administrative regulation conforms to the content of those statutes by identifying eligible credentials for which an award under this program is eligible and expanding that to include the master’s degree.

(d) How the amendment will assist in the effective administration of the statutes: The authorizing statutes require the Authority to promulgate administrative regulations establishing terms and conditions in order to administer the Early Childhood Development Scholarship program. The amendment to this administrative regulation enhances the administration thereof by expanding eligible credentials under the program and correctly identifying the Early Childhood Advisory Council as the governing body for this program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for the Early Childhood Development Scholarship will be positively impacted by the amendment to this administration regulation in that they will now be eligible to pursue a post-baccalaureate degree with scholar-

ship award funds, enroll in more hours each semester and receive a larger award.

(4) Provide an analysis of how the entities identified in (3) above will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take in order to comply with this administrative regulation or amendment: No action will be required of those individuals impacted by this regulation in order to comply therewith.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost will be imposed on those individuals impacted by this regulation in compliance therewith.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Those individuals who meet the eligibility criteria for this program and apply therefore will be considered for scholarship awards.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: See paragraph (5)(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding for the Early Childhood Development Scholarship Program has previously been provided through a combination of money designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states and related federal legislation, as provided in 2000 Ky. Acts ch. 549, Part XI and civil penalties. However, in Fiscal Year 2019, the Kentucky General Assembly redirected the tobacco settlement funds to other state initiatives. Since that time, KHEAA has been able to keep the program going by spending down the funds that continued from year to year. All available funding would have been exhausted during the current year had the CHFS received a \$30.0 million grant under the American Rescue Plan. This grant will provide the funding for the enhanced ECDS program for a period of three (3) years, from 2022 to 2024.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary. Increased funding will be required and is being provided through the American Rescue Plan as described in (6) above.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not applied to the amendment of this administrative regulation. The concept is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire

departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.518(3), 164.748(4)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness. Although additional funds will be expended for the program, these will be provided by the Cabinet for Health and Family Services through a \$30.0 million grant under the American Rescue Plan.

a. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue.

b. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue.

c. How much will it cost to administer this program for the first year? No additional costs are associated with this regulation.

d. How much will it cost to administer this program for subsequent years? No additional costs are associated with this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: